



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बुधवार, 27 अगस्त, 1975/5 भाद्रपद, 1897

GOVERNMENT OF HIMACHAL PRADESH

ELECTION DEPARTMENT

ERRATA

Simla-171002, the 25th August, 1975

No. 3-20/741-Elec.—In Election Commission of India's notifications No. 434/HP/75 (2) and 434/HP/75 (3) both dated the 3rd February, 1975 published in the Extraordinary Gazette of Himachal Pradesh dated the 24th February, 1975 *vide* Election Department's Notification No. 3-20/74-Elec., dated the 17th February, 1975, the following corrections shall be made:—

Page 196: In column No. 1 of the table against Serial No. 23 the word, "Geharwin" be read in place of "Ghumarwin".

पृष्ठ 203: सारणी के स्तम्भ 1 में क्रमांक 51 के सम्मुख शब्द 'रानीखत' को 'बनीखत' पढ़ा जाए।

L. TOCHHAWNG,
Chief Electoral Officer,
Himachal Pradesh.

LAW DEPARTMENT

NOTIFICATION

Simla-2, the 25th August, 1975

No. LLR-E (9) 7/75.—The following Acts recently passed by Parliament which have already been published in the Gazette of India, Extraordinary, Part II, Section I, are hereby republished in the Himachal Pradesh Government Rajpatra, for the information of general public:—

1. The Defence of India (Amendment) Act, 1975 (32 of 1975).
2. The Maintenance of Internal Security (Amendment) Act, 1975 (39 of 1975).
3. The Constitution (Thirty-ninth Amendment) Act, 1975.

M. C. PADAM,
Under Secretary (Judicial).

Assented to on 31-7-1975.

THE DEFENCE OF INDIA (AMENDMENT) ACT, 1975
(Act No. 32 of 1975)

AN

ACT

to amend the Defence of India Act, 1971

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title
and dura-
tion.

1. (1) This Act may be called the Defence of India (Amendment) Act, 1975.

(2) The amendments made to the Defence of India Act, 1971 (hereinafter referred to as the principal Act), by the provisions of this Act shall remain in force during the period of operation of the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution on the 25th day of June, 1975, and for a period of six months thereafter, but their expiry under the operation of this sub-section shall not affect—

42 of 1971

(a) the previous operation of, or anything duly done or suffered under, the principal Act, as amended by this Act, or any rule made thereunder or any order made under any such rule, or

- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the principal Act, as amended by this Act, or any rule made thereunder or any order made under any such rule, or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence under the principal Act, as amended by this Act, or any contravention of any rule made thereunder or of any order made under any such rule, or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said amendments had not expired.

2. In the long title to the principal Act, after the words "civil defence", the words "and internal security," shall be inserted.

Amendment of long title.

3. In the preamble to the principal Act,—

Amendment of preamble.

(a) in the first paragraph,—

- (i) for the word "Proclamation", the word "Proclamations" shall be substituted;
- (ii) after the words "by external aggression", the words "and by internal disturbance" shall be inserted;

(b) in the second paragraph, after the words "and civil defence", the words "and internal security" shall be inserted.

4. In section 1 of the principal Act,—

Amendment of section 1.

- (a) in sub-section (1), for the words "the Defence of India", the words "the Defence and Internal Security of India" shall be substituted;
- (b) in sub-section (3), for the words "shall remain in force during the period of operation of the Proclamation of Emergency", the following shall be substituted, namely:—

"shall, subject to the provisions of the Defence of India (Amendment) Act, 1975, remain in force during the period of operation of the Proclamation of Emergency issued on the 3rd day of December, 1971".

Amendment of section 2.

5. In section of the principal Act, in clause (g), after the words, figures and letters "the 3rd day of December, 1971", the words, figures and letters "or the Proclamation issued under that clause on the 25th day of June, 1975" shall be inserted.

Amendment of section 3.

6. In section 3 of the principal Act,—

(a) in sub-section (1), after the words "civil defence," the words "the internal security," shall be inserted;

(b) in sub-section (2),—

(i) in clause (4),—

(A) in the opening paragraph, for the words "or civil defence", the words "civil defence or internal security" shall be substituted;

(B) in sub-clause (e), after the words "civil defence", the words "internal security" shall be inserted;

(ii) in sub-clause (a) of clause (7), sub-clause (j) of clause (10) and clause (32), after the words "civil defence," the words "the internal security," shall be inserted;

(iii) in clause (9), after the words "any scheme of defence", the words "or any scheme for the prevention of internal disturbance" shall be inserted;

(iv) in clauses (21), (25) and (27), after the words "civil defence", the words "or for internal security" shall be inserted;

(v) in clause (40), after the words "civil defence", the words "or the internal security" shall be inserted;

(vi) in clause (46), after the words "civil defence", the words "to the internal security" shall be inserted;

(c) in sub-section (3), in clause (viii), after the words "civil defence", the words "or the internal security" shall be inserted.

Amendment of section 6.

7. In section 6 of the principal Act, in sub-clause (a) of clause (1), and in sub-clauses (a) and (d) of clause (6), for the words "Defence of India Act", wherever they occur, the words "Defence and Internal Security of India Act" shall be substituted.

Amendment of section 16.

8. In sub-section (1) of section 16 of the principal Act, after the words "civil defence", the words "the internal security", shall be inserted.

9. In sub-section (1) of section 23 of the principal Act, after the words "civil defence," the words "internal security," shall be inserted.

Amendment of section 23.

10. In section 38 of the principal Act, for the words "and the defence of India and civil defence", the words "the defence of India and civil defence and the internal security" shall be substituted.

Amendment of section 38.

5 of 1975 11. (1) The Defence of India (Amendment) Ordinance, 1975, is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, any rules made, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been made, done or taken under the principal Act, as amended by this Act, as if this Act had come into force on the 30th day of June, 1975.

Assented to on 5-8-1975.

THE MAINTENANCE OF INTERNAL SECURITY (AMENDMENT) ACT, 1975

(Act No. 39 of 1975)

AN

ACT

further to amend the Maintenance of Internal Security Act, 1971.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maintenance of Internal Security (Amendment) Act, 1975.

Short title and commencement.

(2) Section 57 shall be deemed to have come into force on the 25th day of June, 1975 and the remaining provisions of this Act shall be deemed to have come into force on the 29th day of June, 1975.

2. In section 4 of the Maintenance of Internal Security Act, 1971 (hereinafter referred to as the principal Act), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

Amendment of section 4.

3. In section 7 of the principal Act,—

Amendment of section 7.

(a) in clause (a) of sub-section (1), for the words and figures "Presidency Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and

thereupon the provisions of sections 87, 88 and 19 of the Code of Criminal Procedure, 1898," the words, figures and brackets "Metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973 " shall be substituted;

5 of 1898

(b) in sub-section (2), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

2 of 1974

Amendment of section 14. 4. In section 14 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

5 of 1898

2 of 1974

"(2) The revocation of a detention order shall not bar the making of another detention order under section 3 against the same person.".

Amendment of section 15.

5. In section 15 of the principal Act,—

(a) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) If the appropriate Government has reason to believe that any person who has failed to surrender himself in manner specified in sub-section (3) has absconded or is concealing himself, that Government may make a report in writing of the fact to a Metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides and thereupon the provisions of sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973, shall apply in relation to such person as they apply in relation to a person who has absconded or is concealing himself so that a warrant issued by the Magistrate cannot be executed.";

2 of 1974

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) Notwithstanding anything contained in any other law and save as otherwise provided in this section, no person against whom a detention order made under this Act is in force shall be released whether on bail or bail bond or otherwise. ".

Insertion of new section 16 A.

6. After section 16 of the principal Act, the following section shall be inserted, namely:—

'16A. (1) Notwithstanding anything contained in this Act or any rules of natural justice, the provisions of this section shall have effect during the period of operation of the Proclamation of Emergency

Special provisions for dealing with emergency.

issued under clause (1) of article 352 of the Constitution on the 3rd day of December, 1971, or the Proclamation of Emergency issued under that clause on the 25th day of June, 1975, or a period of twelve months from the 25th day of June, 1975, whichever period is the shortest.

(2) The case of every person (including a foreigner) against whom an order of detention was made under this Act on or after the 26th day of June, 1975, but before the commencement of his section, shall, unless such persons is sooner released from detention, be reviewed within fifteen days from such commencement by the appropriate Government for the purpose of determining whether the detention of such person under this Act is necessary for dealing effectively with the emergency in respect of which the Proclamations referred to in sub-section (1) have been issued (hereafter in this section referred to as the emergency) and if, on such review, the appropriate Government is satisfied that it is necessary to detain such person for effectively dealing with the emergency, that Government may make a declaration to that effect and communicate a copy of the declaration to the person concerned.

(3) When making an order of detention under this Act against any person (including a foreigner) after the commencement of this section, the Central Government or the State Government or, as the case may be, the officer making the order of detention shall consider whether the detention of such person under this Act is necessary for dealing effectively with the emergency and if, on such consideration, the Central Government or the State Government or, as the case may be, the officer is satisfied that it is necessary to detain such person for effectively dealing with the emergency, that Government or officer may make a declaration to that effect and communicate a copy of the declaration to the person concerned:

Provided that where such declaration is made by an officer, it shall be reviewed by the State Government to which such officer is subordinate within fifteen days from the date of making of the declaration and such declaration shall cease to have effect unless it is confirmed by the State Government, after such review, within the said period of fifteen days.

(4) The question whether detention of any person in respect of whom a declaration has been made under sub-section (2) or sub-section (3) continues to be necessary for effectively dealing with the emergency shall be reconsidered by appropriate Government within four months from the date of such declaration and thereafter at intervals not exceeding four months and if, on such reconsideration, it appears to the appropriate Government that the detention of the persons is no longer necessary for effectively dealing with the emergency, that Government may revoke the declaration.

(5) In making any review, consideration or reconsideration under sub-sections (2), (3) or (4), the appropriate Government or officer may, if such Government or officer considers it to be against public interest to do otherwise, act on the basis of the information and materials in its or his possession without disclosing the facts or giving an opportunity of making a representation to the person concerned.

(6) In the case of every person detained under a detention order to which the provisions of sub-section (2) apply, being a person the review of whose case is pending under that sub-section or in respect of whom a declaration has been made under that sub-section,—

(i) sections 8 to 12 shall not apply; and

(ii) section 13 shall apply subject to the modification that the words and figures "which has been confirmed under section 12" shall be omitted.

(7) In the case of every person detained under a detention order to which the provisions of sub-section (3) apply, being a person in respect of whom a declaration has been made under that such section,—

(i) section 3 shall apply subject to the modification that for sub-sections (3) and (4) thereof, the following sub-section shall be substituted, namely:—

"(3) When any order of detention is made by a State Government or by an officer subordinate to it, the State Government shall, within twenty days, forward to the Central Government a report in respect of the order.";

(ii) sections 8 to 12 shall not apply; and

(iii) section 13 shall apply subject to the modification that the words and figures "which has been confirmed under section 12" shall be omitted.'

7. Section 18 of the principal Act shall be re-numbered as section 19 thereof and before that section as so re-numbered, the following section shall be inserted, namely:—

Insertion of
new section
18.
Exclusion of
common law
or natural
law rights,
if any.

Repeal and
saving.

"18. No person (including a foreigner) detained under this Act shall have any right to personal liberty by virtue of natural law or common law, if any.".

8. (1) The Maintenance of Internal Security (Amendment) Ordinance, 1975 and the Maintenance of Internal Security (Second Amendment) Ordinance, 1975, are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinances shall be deemed to have been done or taken under the principal Act as amended by this Act.

Assented to on 10th August, 1975.

**THE CONSTITUTION (THIRTY-NINTH AMENDMENT)
ACT, 1975**

AN

ACT

further to amend the Constitution of India.

Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Thirty-ninth Amendment) Act, 1975. Short title.

2. For article 71 of the Constitution, the following article shall be substituted, namely :—

“71. (1) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President, including the grounds on which such election may be questioned:

Provided that the election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.

Substitution of new article for article 71.

Matters relating to or connected with the election of a President or Vice President.

(2) All doubts and disputes arising out of or in connection with the election of a President or Vice-President as shall be inquired into and decided by such authority or body and in such manner as may be provided for by or under any law referred to in clause (1).

(3) The validity of any such law as is referred to in clause (1) and the decision of any authority or body under such law shall not be called in question in any court.

(4) If the election of a person as President or Vice-President is declared void under any such law as is referred to in clause (1), acts done by

him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of such declaration shall not be invalidated by reason of that declaration.”.

Amendment
of article
329.

3. In article 329 of the Constitution, for the words “Notwithstanding anything in this Constitution—”, the words, figures and letter “Notwithstanding anythings in this Constitution but subject to the provisions of article 229A—” shall be substituted.

Insertion of
new article
329 A.

4. In Part XV of the Constitution, after article 329, the following article shall be inserted, namely:—

Special pro-
vision as to
elections to
Parliament
in the case
of Prime
Minister
and Spea-
ker.

“329A. (1) Subject to the provisions of Chapter II of Part V [except sub-clause (e) clause (1) of article 102], no election—

- (a) to either House of Parliament of a person who holds the office of Prime Minister at the time of such election or is appointed as Prime Minister after such election;
- (b) to the House of the People of a person who holds the office of Speaker of that House at the time of such election or who is chosen as the Speaker for that House after such election;

shall be called in question, except before such authority [not being any such authority as is referred to in clause (b) of article 329] or body and in such manner as may be provided for by or under any law made by Parliament and any such law may provide for all other matters relating to doubts and disputes in relation to such election including the grounds on which such election may be questioned.

(2) The validity of any such law as is referred to in clause (1) and the decision of any authority or body under such law shall not be called in question in any court.

(3) Where any person is appointed as Prime Minister or, as the case may be, chosen to the office of the Speaker of the House of the People, while an election petition referred to in clause (b) of article 329 in respect of his election to either House of Parliament or, as the case may be, to the House of the People is pending, such election petition shall abate upon such person being appointed as Prime Minister or, as the case may be, being chosen to the office of the Speaker of the House of the People, but such election may be called in question under any such law as is referred to clause (1).

(4) No law made by Parliament before the commencement of the Constitution (Thirty-ninth Amendment) Act, 1975, in so far as it relates to election petitions and matters connected therewith, shall apply or shall be deemed ever to have applied to or in relation to the election of any

such person as is referred to in clause (1) to either House of Parliament and such election shall be deemed to be void or ever to have become void on any ground on which such election could be declared to be void or has, before such commencement, been declared to be void under any such law and notwithstanding any order made by any court, before such commencement, declaring such election to be void, such election shall continue to be valid in all respects and any such order and any finding on which such order is based shall be and shall be deemed always to have been void and of no effect.

(5) Any appeal or cross appeal against any such order of any court as is referred to in clause (4) pending immediately before the commencement of the Constitution (Thirty-ninth Amendment) Act, 1975, before the Supreme Court shall be disposed of in conformity with the provisions of clause (4).

(6) The provisions of this article shall have effect notwithstanding anything contained in this Constitution.”.

5. In the Ninth Schedule to the Constitution, after entry 86 and before the *Explanation*, the following entries shall be inserted, namely:—

Amendment
of the Ninth
Schedule.

“87. The Representation of the People Act, 1951 (Central Act 43 of 1951), The Representation of the People (Amendment) Act, 1974 (Central Act 58 of 1974) and the Election Laws (Amendment) Act, 1975 (Central Act 40 of 1975).

88. The Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951).

89. The Requisitioning and Acquisition of Immovable Property Act, 1952 (Central Act 30 of 1952).

90. The Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957).

91. The Monopolies and Restrictive Trade Practices Act, 1969 (Central Act 54 of 1969).

92. The Maintenance of Internal Security Act, 1971 (Central Act 26 of 1971).

93. The Coking Coal Mines (Emergency Provisions) Act, 1971 (Central Act 64 of 1971).

94. The Coking Coal Mines (Nationalisation) Act, 1972 (Central Act 36 of 1972).

95. The General Insurance Business (Nationalisation) Act, 1972 (Central Act 57 of 1972).

96. The Indian Copper Corporation (Acquisition of Undertaking) Act, 1972 (Central Act 58 of 1972).

97. The Sick Textile Undertakings (Taking Over of Management) Act, 1972 (Central Act 72 of 1972).
98. The Coal Mines (Taking Over of Management) Act, 1973 (Central Act 15 of 1973).
99. The Coal Mines (Nationalisation) Act, 1973 (Central Act 26 of 1973).
100. The Foreign Exchange Regulation Act, 1973 (Central Act 46 of 1973).
101. The Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973 (Central Act 56 of 1973).
102. The Coal Mines (Conservation and Development) Act, 1974 (Central Act 28 of 1974).
103. The Additional Emoluments (Compulsory Deposit) Act, 1974 (Central Act 37 of 1974).
104. The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1934 (Central Act 52 of 1974).
105. The Sick Textile Undertakings (Nationalisation) Act, 1974 (Central Act 57 of 1974).
106. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1964 (Maharashtra Act XVI of 1965).
107. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1965 (Maharashtra Act XXXII of 1965).
108. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1968 (Maharashtra Act XVI of 1968).
109. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Second Amendment) Act, 1968 (Maharashtra Act XXXIII of 1968).
110. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1969 (Maharashtra Act XXXVII of 1969).
111. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Second Amendment) Act, 1969 (Maharashtra Act XXXVIII of 1969).
112. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1970 (Maharashtra Act XXVII of 1970).
113. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1972 (Maharashtra Act XIII of 1972).
114. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1973 (Maharashtra Act L of 1973).
115. The Orissa Land Reforms (Amendment) Act, 1965 (Orissa Act 13 of 1965).
116. The Orissa Land Reforms (Amendment) Act, 1966 (Orissa Act 8 of 1967).
117. The Orissa Land Reforms (Amendment) Act, 1967 (Orissa Act 13 of 1967).
118. The Orissa Land Reforms (Amendment) Act, 1969 (Orissa Act 13 of 1969).

119. The Orissa Land Reforms (Amendment) Act, 1970 (Orissa Act 18 of 1970).
120. The Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1972 (Uttar Pradesh Act 18 of 1973).
121. The Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1974 (Uttar Pradesh Act 2 of 1975).
122. The Tripura Land Revenue and Land Reforms (Third Amendment) Act, 1975 (Tripura Act 3 of 1975).
123. The Dadra and Nagar Haveli Land Reforms Regulation, 1971 (3 of 1971).
124. The Dadra and Nagar Haveli Land Reforms (Amendment) Regulation, 1973 (5 of 1973)".

